

BOARD OF APPEALS CASE NO. 5262

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BEFORE THE

APPLICANTS: Oakie & Eunice Bishop

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ZONING HEARING EXAMINER

**REQUEST: Variances to allow 5 panhandle lots
and permit a detached agricultural structures
within the required side yard setback;
725 Darlington Road, Darlington**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/5/02 & 6/12/02

HEARING DATE: July 22, 2002

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Record: 6/7/02 & 6/14/02

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Oakie H. Bishop and Eunice Bishop, are requesting a variance pursuant to Section 267-22G(4) of the Harford County Code, to allow five (5) panhandle lots (4 allowed), and a variance, pursuant to Section 267-26C(5)(a), to allow a detached agricultural structure to be located less than the required ten (10) feet from the side lot line (existing 4 feet) in an AG District.

The subject property is located at 725 Darlington Road, approximately 1000 feet north of the intersection of MD Route 161 and Deer Creek. The parcel is more particularly identified on Tax Map 28, Grid 3 D, Parcel 9. The parcel consists of 38 acres, is zoned AG/Agricultural and is entirely within the Fifth Election District.

Mr. Frank Robinson appeared on behalf of the Applicant and qualified as an expert land surveyor. Robinson is familiar with the property and has surveyed all of the lots except one. He described the overall development utilizing Applicant's Exhibit 2 (Preliminary Plat of Deer Creek Hills subdivision) and pointed out the 4 existing panhandle lots, namely Lots 8, 10, 11 and 12. Referring to Exhibit 2, he described proposed panhandle Lot 14 which is outlined in orange on Exhibit No. 2. Lot 14 is 21.551 acres more or less and will have one residential home. The witness pointed out that there had been an additional 3 acres proposed and actually approved through the DAC process. That concept, however, would require extensive disturbance of NRD areas and would require additional access over Deer Creek.

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The witness pointed out the extensive areas of NRD on the parcel and indicated that the proposed configuration of one additional panhandle lot would limit any further disturbances to the natural features of the parcel. An additional panhandle will have no impact on sight distance along the driveway and on MD route 161 and will allow one additional contributor for cost of maintenance. There is an existing barn located along the drive and creation of this fifth panhandle creates the need for a variance regarding the side yard setback. The witness pointed out that there would be no change in physical appearance or location of the driveway, that the panhandle is a paper creation. The witness described the overall property as very unique topographically with Deer Creek bordering the property, vast areas of NRD and mature forest stands. The witness did not believe any adverse impacts would result from the grant of the two variances.

Mr. Oakie Bishop appeared and testified that he is the Applicant and owner of the property. Mr. Bishop testified that he has owned the subject parcel for 28 years. Mr. Bishop stated that the prior configuration would have required an additional access point and that sight distance was very limited at the former location. The proposed new panhandle configuration will provide improved safety as to ingress and egress and will limit disturbance to NRD and other natural features of the property. The barn was described by the witness as old and somewhat of a local landmark. Bishop indicated it would be a loss if the barn were torn down to accommodate a paper property line. Bishop opined that leaving the barn where it was would have no impacts of any kind on anyone.

Anthony McClune appeared on behalf of the Department of Planning and Zoning. The Department agrees that the creation of fifth panhandle is a much better alternative than the previous 3 lot configuration. The property, according to McClune is unique and the proposed plan is much more attractive from a planning standpoint because it limits disturbance of NRD areas and provides better sight distance for ingress and egress to the property. McClune agreed that the location of the barn would not result in any adverse impacts to any persons as the new property line would not actually result in any physical changes to the driveway entrance. Visually, the barn and driveway will remain the same after the grant of the variance as before.

There were no persons who appeared in opposition to the request.

CONCLUSION:

The Applicants are requesting a variance, pursuant to Section 267-22G(4) of the Harford County Code, to allow five (5) panhandle lots (4 allowed) in an AG District, and a variance, pursuant to Section 267-26C(5)(a), to allow a detached agricultural structure to be located less than the required ten (10) feet from the side lot line (existing 4 feet) in an AG District.

Harford County Code Section 267-22G(4) provides:

“Panhandle lots shall be permitted for agricultural and residential uses, to achieve better use of irregularly shaped parcels, to avoid development in areas with environmentally sensitive features or to minimize access to collector or arterial roads, subject to the following requirements:

- (4) Groups not exceeding four (4) lots may have two (2) lots on panhandles in accordance with the following criteria. Panhandle lots and subdivisions shall have, as a minimum, the following width:
 - (a) Single panhandles: twenty-five (25) feet.
 - (b) Double panhandles: twelve and one-half (12½) feet each, for a total of twenty-five (25) feet.”

Section 267-26C(5)(a) provides:

“Use limitations. In addition to the other requirements of this Part 1, an accessory use shall not be permitted unless it strictly complies with the following:

- (5) Uses and structures.
 - (a) Agriculture detached accessory structure: ten (10) feet from side or rear lot lines, except for lots with recorded easements. For lots with recorded easements, the setback shall be equal to the width of the recorded easement located on the lot.

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The Harford County Code, pursuant to 267-11, permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

The Hearing Examiner agrees with the Applicant and the witnesses that testified regarding the unique nature of this parcel. It is a large tract and is encumbered by large areas of NRD and is bordered by Deer Creek. The proposal will limit disturbance of those sensitive environmental features while providing improved safety regarding ingress and egress to the property. The location of the barn is existing and a grant of the variance will in no way create adverse impacts regarding its location and proximity to a newly created panhandle. The actual driveway will not physically change so there is no physical change to the parcel as a result of the variance. In limiting disturbance to areas of sensitive environmental features the intent and purpose of the Harford County Code has been satisfied.

The Hearing Examiner recommends approval of the requests subject to the following conditions:

- 1. The preliminary plan for the new panhandle lot must be reviewed and approved by the Department of Planning and Zoning.**
- 2. A final plat shall be submitted to the Department of Planning and Zoning for approval and recordation among the County land records.**
- 3. The existing common drive agreement shall be amended to include the additional lot owner.**

Date: AUGUST 13, 2002

**William F. Casey
Zoning Hearing Examiner**